

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



MARK A. ODYNIEC,

Plaintiff,

v.

23-CV-1035 (JLS)

M&T BANK CORPORATION,

Defendants.

DECISION AND ORDER

Plaintiff Mark Odyniec initiated this action in New York State Supreme Court, Erie County. *See* Dkt. 1. Odyniec asserts a breach of contract claim against Defendant M&T Bank, seeking benefits from the terms of an ERISA plan. *Id.* M&T Bank removed the case to this Court. *Id.* This Court referred the case to Judge Roemer¹ after M&T moved to dismiss. *See* Dkt. 6. Odyniec did not respond to M&T's motion, nor did he utilize the opportunity Judge Roemer provided to show cause as to why the Court should not decide M&T's motion based only on M&T's submissions.

On April 24, 2024, Judge Roemer issued a Report and Recommendation ("R&R"), recommending that this Court grant M&T's motion to dismiss. *See* Dkt. 12, at 10.

¹ This Court referred the case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. sections 636(b)(1)(A), (B), and (C). Dkt. 7.

Neither party objected to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. section 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

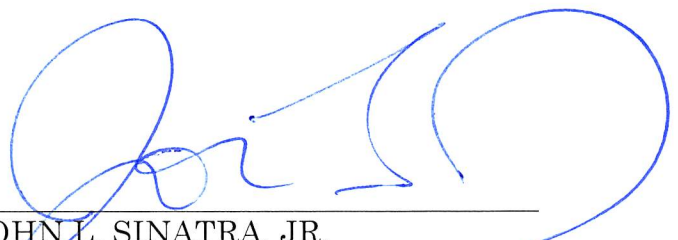
Although not required to do so here, the Court nevertheless reviewed Judge Roemer's R&R. Based on that review, and absent any objections, the Court accepts and adopts the R&R's recommendation to grant Defendant's motion to dismiss. Dkt. 12.

CONCLUSION

For the reasons above and in the R&R, the Court GRANTS M&T's motion to dismiss. *See* Dkt. 6. Odyniec's breach of contract claim is dismissed. *See* Dkt. 1. The Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: May 21, 2024
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE